

REMARKS

I. Status of the Application and Claims

With entry of this amendment, claims 1-3 and 5-38 are pending in the application. Claims 4 and 39-56 have been canceled. Claims 1-6, 13, 15-17, and 23-34 have been rejected. Claims 7-12, 14, 18-22, and 35-38 have been objected to.

The substitute Abstract contains the same text as the original Abstract, which has been rewritten as a single paragraph. No new matter has been added.

Applicants have amended claims 1-3, 5, 15-17, 23-26, 31-33, 35, and 37 solely to more particularly claim the subject matter therein. Claims 1-3 and 5 have been amended to include different ranges of consecutive nucleotides of the claimed SEQ ID's. Support for these amendments are found in the original specification and in all priority documents. For example, support for a range of consecutive nucleotides of "at least 30" nucleotides in claim 3 is found in original claim 3 because "at least 20 nucleotides" comprises "at least 30 nucleotides."

Claims 15-17, 23-26, and 31-32 have been amended to more clearly point out the antecedent basis of each "isolated nucleic acid" recited therein. Support for these amendments are found in the original specification and in all priority documents.

Claims 33, 35, and 37 have been amended to remove multiple dependencies. The amendments introduce no new matter.

Applicants note that claims 7-12, 14, and 18-22 are objected to as being dependent upon a rejected claim

Claims 35-38 have been objected to for improper multiple dependencies. Office Action, page 3. Applicants have amended claims 33, 35, and 37 removing the multiple dependencies, rendering the objection moot. Applicants respectfully request reconsideration and withdrawal of the objection.

II. Indefiniteness Rejection of Claims 16-17 and 24-34

The Office rejected claims 16-17 and 24-34 under 35 U.S.C. § 112, second paragraph, as being indefinite because there is allegedly “no clear and positive prior antecedent basis for the term ‘said nucleic acid’ in the claims.” Office Action, pages 3-4.

Applicants disagree with the rejection. In order to promote the prosecution of the application, however, Applicants amend claims 15-17, 23-26, and 31-32 solely to more particularly describe the subject matter of the invention. For example, the amended claims more clearly point out the antecedent basis of each “isolated nucleic acid” recited therein. One of ordinary skill in the art reading the claims would understand which isolated nucleic acid is being referred to for each recitation, and the antecedent basis for each use of the term. Support for the amended claims is found in the specification. No new matter has been added.

Applicants respectfully request reconsideration and withdrawal of the rejection.

III. Anticipation Rejections under 35 U.S.C. § 102

The Office rejected claims 1-6, 13, 15-16, 23-34, and 31-33 under 35 U.S.C. § 102(b) as being anticipated by *Langmann et al.*, Biochem. Biophys. Res. Comm. 257:29-33 (1999) (“*Langmann*”); rejected claims 2, 4, and 5 under 35 U.S.C. §

102(b) as being anticipated by *Auffray et al.*, C. R. Acad. Sci. 318:263-272 (“*Auffray*”); and rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Feder et al.*, U.S. Patent No. 5,872,237 (“*Feder*”). Office Action, pages 4-5. Applicants traverse the rejections because *Langmann*, *Auffray*, and *Feder* do not teach all the limitations of the instant claims.

Langmann

The Office asserts that *Langmann* anticipates the claims 1-6, 13, 15-16, 23-24, and 31-33 because *Langmann* allegedly discloses a “full-length cDNA” comprising “the first 120 nucleotides 5’ of the coding sequence.” *Id.*, page 4. *Langmann* does not anticipate the claims as amended because *Langmann* does not disclose “an isolated nucleic acid comprising a polynucleotide having at least 300 consecutive nucleotides of the nucleotide sequence SEQ ID No. 1, or an isolated nucleic acid of complementary sequence.” Accordingly, *Langmann* does not anticipate the claimed invention because it does not teach all of the limitations of the instant claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Auffray

The Office asserts that *Auffray* anticipates claims 2, 4, and 5 because *Auffray* allegedly discloses a “sequence of a cDNA clone” comprising “greater than 20 contiguous nucleotides of SEQ ID NOS: 2, 4 and 5.” Office Action, pages 4-5. Claim 4 has been cancelled rendering the rejection of claim 4 moot.

Applicants point out that *Auffray* does not anticipate claim 2 as amended because *Auffray* discloses only a portion of the polynucleotide of SEQ ID NO. 2. It does not disclose the entire “polynucleotide of the sequence SEQ ID No. 2, or an

isolated nucleic acid of complementary sequence” as recited in claim 2. Similarly, *Auffray* does not anticipate claim 5 as amended because *Auffray* does not disclose a “polynucleotide which has at least 30 consecutive nucleotides of the sequence SEQ ID No. 5, or an isolated nucleic acid of complementary sequence” required in claim 5. Accordingly, *Auffray* does not anticipate the claimed invention because it does not teach all of the limitations of the instant claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Feder

The Office asserts that *Feder* anticipates claim 1 because *Feder* allegedly discloses “the sequence described by SEQ ID NO: 20 of the patent comprises several sequences having greater than 20 contiguous nucleotides of SEQ ID NO: 1 of the instant application.” *Id.*, page 5.

Applicants submit that *Feder* does not anticipate the claims as amended because *Feder* does not disclose “an isolated nucleic acid comprising a polynucleotide having at least 300 consecutive nucleotides of the nucleotide sequence SEQ ID No. 1, or an isolated nucleic acid of complementary sequence”, as required in claim 1. Accordingly, *Feder* does not anticipate the claimed invention because it does not teach all of the limitations of the instant claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

SUMMARY

In view of the above amendments and remarks, Applicants submit that this application is in condition for allowance. An early and favorable action is earnestly solicited.

Please grant any extensions of time required to enter this amendment and response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: Monday, April 21, 2003

By: 

Charles D. Niebylski
Reg. No. 46,116
(202) 408-4128

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com